

REMARKS/ARGUMENTS

Claims 1-3, 5 and 7-39 are currently pending in the application. Claims 4 and 6 were previously canceled without prejudice. Claims 1-3, 5 and 7-39 were rejected in the final Office Action mailed June 27, 2008 (hereinafter referred to as "Office Action"). This amendment is being filed with a Request for Continued Examination and a petition for a one month extension of time to extend the due date from September 27, 2008 to October 27, 2008. A credit card authorization to pay the required fees is being filed separately via facsimile. In view of the following remarks and amendments, applicant respectfully requests a timely Notice of Allowance be issued in this case.

Response to Comments in Advisory Action & Claim Rejections under 35 U.S.C. § 112

The Office Action rejected claims 1, 25 and 39 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement because the claims contain subject matter which was not sufficiently described in the specification. Applicant filed a response on September 2, 2008 stating that the amendments are fully supported in Figures 18-35, Paragraphs [0055]-[0074] and other parts of the application. Figure 18 was pointed out as only one part of the application to support the amendments:

Applicant respectfully submits that the amendments are fully supported in Figures 18-35, Paragraphs [0055]-[0074] and other parts of the application. For example, Figure 18 shows (in part): a first visual favorable/unfavorable trade indicator 1806 for a series of consecutive first time intervals (long term - monthly time intervals) for CSCO 1432; and a second visual favorable/unfavorable trade indicator 1804 for a series of consecutive second time intervals (mid term - weekly time intervals) for CSCO 1432. In addition, Figure 18 shows (in part): a first opening value trend (red line 1812) for the first time intervals (monthly time intervals) for CSCO 1432; and a first closing value trend (green line 1810) for the first time intervals (monthly time intervals) for CSCO 1432. The second opening value trend and the second closing value trend can be displayed by clicking on the second visual favorable/unfavorable trade indicator 1804 ([0055], lines 12-19).

In response, the Advisory Action mailed September 30, 2008 stated:

"The new matter [is] not supported in [the] original specification and/or drawings. Whereas Fig 18 shows 1804, 1806 and CSCO 1432, along with other inputs and two graph lines 1810 and 1812, the additional information appended to claim 1 is not cited anywhere in the body of the description. The new matter is interpretive information gleaned from looking at a drawing or figure. The limitations are not definitive. The examiner interprets this new matter as hindsight, intended to circumvent prior art.

(Continuation Sheet). Applicant respectfully disagrees for at least the following reasons.

First, applicant respectfully submits that the specification sufficiently defines and describes the terms used in amendments made on April 1, 2008. For example, the following selected portions of the specification use the terms in the amended claims with sufficient detail to satisfy 35 U.S.C. § 112, first paragraph:

Claim 1	Specification
<p>calculating [an] a <u>first</u> opening value trend <u>for the first time intervals</u> using a market trend indicator and the <u>first</u> opening values for the underlying investment, and a <u>second opening value trend for the second time intervals using the market trend indicator and the second opening values for the underlying investment</u>;</p>	<p>[0021] ...The Overview Screen 300 enables the investor to recognize trends and directional movements...Color coded indicators 310a-310h, 320a-320h, 330a-330h, 340a-340h and 350a-350h are displayed for each of the selected investments 310, 320, 330, 340 and 350...<i>Each indicator 310a-310h, 320a-320h, 330a-330h, 340a-340h and 350a-350h displays the chosen time interval for that indicator. Time intervals may be in minutes, hours, days, weeks or months. In the example shown, the time interval for indicators 310a, 320a, 330a, 340a and 350a is one minute; the time interval for indicators 310b, 320b, 330b, 340b and 350b is five minutes; the time interval for indicators 310c, 320c, 330c, 340c and 350c is fifteen minutes; the time interval for indicators 310d, 320d, 330d, 340d and 350d is thirty minutes; the time interval for indicators 310e, 320e, 330e, 340e and 350e is sixty minutes; the time interval for indicators 310f, 320f, 330f, 340f and 350f is one day; the time interval for indicators 310g, 320g, 330g, 340g and 350g is one week; and the time interval for indicators 310h, 320h, 330h, 340h and 350h is one month.</i></p>
<p>calculating a <u>first</u> closing value trend <u>for the first time intervals</u> using the market trend indicator and the <u>first</u> closing values for the underlying investment, and a <u>second closing value trend for the second time intervals using the market trend indicator and the second closing values for the underlying investment</u>;</p>	<p>[0022] As will be described below in reference to FIGURE 5, <i>the present invention uses a regression analysis to calculate an opening value trend and a closing value trend for each of the time intervals for each of the investments 310, 320, 330, 340 and 350...</i></p>
<p>calculating a <u>first</u> closing value trend <u>for the first time intervals</u> using the market trend indicator and the <u>first</u> closing values for the underlying investment, and a <u>second closing value trend for the second time intervals using the market trend indicator and the second closing values for the underlying investment</u>;</p>	<p>[0026] ...MLR Chart 520 displays two regression lines 540 and 550, one color coded to indicate <i>opening prices</i> and the other color coded to indicate <i>closing prices</i>...</p>
<p>calculating a <u>first</u> closing value trend <u>for the first time intervals</u> using the market trend indicator and the <u>first</u> closing values for the underlying investment, and a <u>second closing value trend for the second time intervals using the market trend indicator and the second closing values for the underlying investment</u>;</p>	<p>[0027] Chart interval 580 represents a period of time, which is established by selecting a <i>time interval</i> button 582, 584, 586, 588, 590, 592, 594 and 596. Any position on the green regression line 550 represents a regression of a prior number of period's closing prices. <i>This regression analysis builds and displays a trend of the closing prices of the investment 510 over a period of time.</i> Any position on the red regression line 540 represents a regression of a prior number of period's opening prices. <i>This regression analysis builds and displays a trend of the opening prices of the investment over a period of time...</i></p>
<p>calculating a <u>first</u> closing value trend <u>for the first time intervals</u> using the market trend indicator and the <u>first</u> closing values for the underlying investment, and a <u>second closing value trend for the second time intervals using the market trend indicator and the second closing values for the underlying investment</u>;</p>	<p>[0055] ...<i>calculates the Buy/Sell Pressure Indicators for three time intervals (short term, mid term and long term).</i> The short term (daily), mid term (weekly) and long term (monthly) data is displayed by clicking on the Short Term button 1802, Mid Term button 1804 or the Long Term button 1806... Once selected, the Buy/Sell Pressure Indicators 1810 (<i>closing value trend</i>) and 1812 (<i>opening value trend</i>) for time intervals are displayed in upper chart 1814, and the volume for the intervals is displayed in lower chart 1816.</p>

	<p>[0056] ...The present invention uses a regression analysis to <i>calculate an opening value trend and a closing value trend for each of the time intervals (daily, weekly, monthly) for the selected stock...</i></p> <p>[0057] ...<i>Any position on the green regression line 1810 represents a regression of a prior number of period's closing prices, such as four (4) prior monthly interval closing prices. This regression analysis builds and displays a trend of the closing prices over a period of time. Any position on the red regression line 1812 represents a regression of a prior number of period's opening prices, such as three (3) prior monthly interval opening prices. The current interval's opening price is not included in this calculation. This regression analysis builds and displays a trend of the opening prices of the investment over a period of time...</i></p>
<p>displaying a <u>first</u> visual <u>favorable/unfavorable</u> <u>trade</u> <u>indicator</u> <u>comparing for the first</u> <u>time intervals based</u> <u>on a comparison of</u> <u>the first opening value</u> <u>trend to the first</u> <u>closing value trend</u> <u>for the</u> <u>underlying</u> <u>investment, wherein</u> <u>the first visual</u> <u>favorable/unfavorable</u> <u>trade indicator is a</u> <u>first color whenever</u> <u>the first closing value</u> <u>trend is greater than</u> <u>the first opening value</u> <u>trend and the first</u> <u>visual</u> <u>favorable/unfavorable</u> <u>trade indicator is a</u> <u>second color</u> <u>whenever the first</u> <u>closing value trend is</u> <u>lower than the first</u> <u>opening value trend;</u> <u>and</u></p> <p>_____displaying a <u>second</u> visual <u>favorable/unfavorable</u> <u>trade</u> <u>indicator</u> <u>comparing for the</u> <u>second time intervals</u> <u>based on a</u> <u>comparison of the</u></p>	<p>[0021] ...The Overview Screen 300 enables the investor to recognize trends and directional movements...Color coded indicators 310a-310h, 320a-320h, 330a-330h, 340a-340h and 350a-350h are displayed for each of the selected investments 310, 320, 330, 340 and 350...<i>Each indicator 310a-310h, 320a-320h, 330a-330h, 340a-340h and 350a-350h displays the chosen time interval for that indicator. Time intervals may be in minutes, hours, days, weeks or months. In the example shown, the time interval for indicators 310a, 320a, 330a, 340a and 350a is one minute; the time interval for indicators 310b, 320b, 330b, 340b and 350b is five minutes; the time interval for indicators 310c, 320c, 330c, 340c and 350c is fifteen minutes; the time interval for indicators 310d, 320d, 330d, 340d and 350d is thirty minutes; the time interval for indicators 310e, 320e, 330e, 340e and 350e is sixty minutes; the time interval for indicators 310f, 320f, 330f, 340f and 350f is one day; the time interval for indicators 310g, 320g, 330g, 340g and 350g is one week; and the time interval for indicators 310h, 320h, 330h, 340h and 350h is one month.</i></p> <p>[0022] ...<i>The color of the indicators 310a-h, 320a-h, 330a-h, 340a-h and 350a-h is based on a comparison of the opening value trend to the closing value trend for each time interval for each investment 310, 320, 330, 340 and 350, and whether a long trade 314a, 324a, 334a, 344a and 354a or short trade 314b, 324b, 334b, 344b and 354b has been selected. If a long trade 314a, 324a, 334a, 344a and 354a is selected, the indicators 310a-h, 320a-h, 330a-h, 340a-h and 350a-h will be a first color when the closing value trend is greater than the opening value trend for each time interval for each investment 310, 320, 330, 340 and 350, and a second color when the closing value trend is less than the opening value trend for each time interval for each investment 310, 320, 330, 340 and 350. For example, indicators 310a, 310b, 310c, 310e, 310f, 310g, 310h, 320a, 320b, 320c, 320d, 320f, 320g, 320h, 330a, 330f, 330g, 330h, 340a, 340d, 340h, 350a, 350b and 350g are green in FIGURE 3 indicating favorable trading conditions for investments 310, 320, 330, 340 and 350 within the specified time intervals. Indicators 310d, 320e, 330b, 330c, 330d, 330e, 340b, 340c, 340e, 340f, 340g, 350c, 350d, 350e, 350f and 350h are red in FIGURE 3 indicating unfavorable trading conditions for investments 310, 320, 330, 340 and 350 within the specified time intervals. If, however, a short trade 314b, 324b, 334b, 344b and 354b is selected, the indicators 310a-h, 320a-h, 330a-h, 340a-h and 350a-h will be the first color when the closing value trend is less than the opening value trend for each time interval for each investment 310, 320, 330, 340 and 350, and the second color when the closing value trend is</i></p>

<p><u>second opening value trend to the second closing value trend for the _____ underlying investment, wherein the second visual favorable/unfavorable trade indicator is the first color whenever the second closing value trend is greater than the second opening value trend and the second visual favorable/unfavorable trade indicator is the second color whenever the second closing value trend is lower than the second opening value trend.</u></p>	<p><i>greater than the opening value trend for each time interval for each investment 310, 320, 330, 340 and 350. Other colors may be used as the first</i></p> <p>[0027] <i>Chart interval 580 represents a period of time, which is established by selecting a time interval button 582, 584, 586, 588, 590, 592, 594 and 596... When the green regression line 550 is above the red regression line 540 on the chart, favorable conditions for a long trade occur. When the red regression line 540 is above the green regression line 550 on the chart, favorable conditions for a short trade occur. A critical point occurs where the red regression line 540 and the green regression line 550 cross. When the red regression line 540 crosses the green regression line 550 and ascends above the green regression line 550, the associated time interval indicator 581-588 will become red. When the green regression line 550 crosses the red regression line 540 and ascends above the red regression line 540, the associated time interval indicator 581-588 will become green. These color changes will also occur on indicators 310a-310h, 320a-320h, 330a-330h, 340a-340h and 350a-350h (FIGURE 3) for the associated investment.</i></p> <p>[0055] <i>...As shown, each term button 1802-1806 will be either a green colored up arrow, which indicates an upward trend (e.g., Long Term button 1806), or a red colored down arrow, which indicates a downward trend (e.g., Short Term button 1802 and Mid Term button 1804)..</i></p> <p>[0056] <i>...The color of the indicators 1802-1806 is based on a comparison of the opening value trend to the closing value trend for each time interval for the selected stock. The indicators 1802-1806 will be a first color when the closing value trend is greater than the opening value trend for each time interval and a second color when the closing value trend is less than the opening value trend for each time interval. The upper graph 1814, which is a multiple linear regression chart (MLR), displays two color coded regression lines, a red line 1812 and a green line 1810, generated using the present invention's algorithm against the selected time interval. The present invention preferably uses red to indicate opening prices and green to indicate closing prices. Other colors can be used. In general, the red line 1812 incorporates the algorithms and factors that tend to drive a price downward. Conversely, the green line 1810 integrates the algorithms and factors tend to drive the price upward. A user can quickly determine his or her your entry and exit points based on the crossover lines, which are displayed with red and green lights.</i></p> <p>[0057] <i>...When the green regression line 1810 is above the red regression line 1812 on the chart, favorable conditions for a long trade occur. When the red regression line 1812 is above the green regression line 1810 on the chart, favorable conditions for a short trade occur. A critical point occurs when the red regression line 1812 and the green regression line 1810 cross. When the green regression line 1810 crosses the red regression line 1906 and ascends above the red regression line 1812, the associated time interval indicator will become green. When the red regression line 1812 crosses the green regression line 11810 and ascends above the green regression line 1810, the associated time interval indicator will become red. The longer term trend indicators start to turn red as the movement continues. As the present invention updates the calculations and the indicators change, the investor can be notified via audible or visual</i></p>
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alerts...

Note that the specification excerpts shown above only represent a partial sampling of the use of the terms and are not exhaustive. MPEP § 2163.02 states “to satisfy the written description requirement, an applicant must convey with reasonable clarity to those skilled in the art that, as of the filing date sought, he or she was in possession of the invention, and that the invention, in that context, is whatever is now claimed.” Applicant respectfully submits that the specification excerpts shown above satisfy the written description requirement. Moreover, applicant respectfully submits that 39 pages of summary/detailed description and 42 sheets of figures sufficiently satisfy the written description requirement.

Second, applicant respectfully submits that the exact terminology used in the claims does not have to appear in the specification. MPEP § 2163.02 states “The subject matter of the claim need not be described literally (i.e., using the same terms or *in haec verba*) in order for the disclosure to satisfy the description requirement.”

Third, applicant respectfully submits that the drawings are part of the disclosure and can be used to support amendments to the claims. MPEP § 2163.06 states that “information contained in any one of the specification, claims or drawings of the application as filed may be added to any other part of the application without introducing new matter.” Moreover, the Advisory Action stated that “The new matter is interpretive information gleaned from looking at a drawing or figure.” Since the figures are part of the application as originally filed and the information can be found by looking at the figure, the information is not new matter because one skilled in the art would recognize the inventor “was in possession of the invention, and that the invention, in that context, is whatever is now claimed.” MPEP § 2163.02

For all the reasons stated above, applicant respectfully submits that claims 1, 25 and 39 comply with the written description requirement because the claims contain subject matter which was sufficiently described in the application as filed. Accordingly, applicant respectfully submits that claims 1, 25 and 39 are allowable under 35 U.S.C. § 112, first paragraph. Applicant respectfully requests that the rejection of claims 1, 25 and 39 be withdrawn.

Claim Rejections under 35 U.S.C. § 103

Claims 1-3, 5-8, 10-14, 17-18, 20-25, 27-30 and 33-39 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2006/0271475 to Brumfield et al. (hereinafter referred to as “Brumfield”) in view of U.S. Patent Application Publication No. 2002/0184134 to Olsen et al. (hereinafter referred to as “Olsen”). In addition, claims 16 and 32 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Brumfield in view of Olsen in further view of U.S. Patent

7,174,384 to Fitzpatrick et al. (hereinafter referred to as "Fitzpatrick"). Applicant respectfully submits claims 1-3, 5 and 7-39, as amended, are not obvious over the cited references and are, therefore, allowable under 35 U.S.C. § 103(a) for the reasons stated below.

Claims 1, 25 and 39

The Office Action indicated that Brumfield discloses all of the elements except for the first time interval is not equal to the second time interval (page 5, line 14-page 7, line 11). Applicant respectfully disagrees.

First, Brumfield only discloses one time interval, *not* two different time intervals as recited in claims 1, 25 and 39:

"A first information display region associated with the first commodity and including a number of locations arranged such that each location corresponds to a price level along at least a portion of a first static price axis is displayed at a first time. A second similar information display region associated with the second commodity is also displayed at that time."

([0011] (emphasis added)).

Second, the two sets of market data disclosed in Brumfield are for two different investments, *not* two sets of market data for the same investment as recited in claims 1, 25 and 39:

"Indicators associated with items of interest related to the first commodity and the second commodity are displayed in the first information display region and the second information display region, respectively."

([0011] (emphasis added)).

Third, Brumfield discloses displaying a net price open position (long position minus short position), *not* calculating a first opening value trend for the first time intervals and a second opening value trend for the second time intervals as recited in claims 1, 25 and 39:

"In one embodiment, it may be useful to display the net price open position, where a position is the difference between the number of orders bought (a long position) and the number of orders sold (a short position). . . . This feature incorporates the price levels of these multiple fills to determine the net price at which the fills occurred. The trader can then use

this net price to gauge whether trading out of a position would result in a realized gain, loss, or scratch (neither a gain nor a loss).”

([0186]). There is no mention of two different time intervals or two different value trends.

Fourth, Brumfield does not disclose, teach or suggest calculating a first closing value trend for the first time intervals and a second closing value trend for the second time intervals as recited in claims 1, 25 and 39. Instead, Brumfield discloses:

Based on the calculation above, the value of 100 is displayed as the trader's net price of the trader's open position. The net price can be displayed in one of several manners, which include, without limitation, a box 2100 around the net price's price level cell as shown in FIG. 21, a separate column for the display of the net price, a box across the net price's price level, or a distinguishing color for the net price. If a particular trader has a long position as the result of buying quantity, any additional quantity that is bought will cause the net price of the trader's open position to be re-calculated. Preferably, should that trader sell quantity, the trader's position will change but the net price that is displayed will remain constant. Any additional buy quantity will subsequently change both the trader's position and the net price of that position, while all subsequent sell quantity will adjust the trader's position only, and will do so only until the position is closed. Should a trader begin a trading session with a short position as a result having the sell quantity(s) filled, all of the trader's subsequent sell quantity will change both the position and the net price of the trader's open position when such sell quantity is filled. Any buy quantity that has been filled will not change the net price, but will instead affect only the position and only until that position has been closed. As a result, it will be easier for a trader to gauge where (at what price) the trader needs to buy or sell when the net price of the trader's long position is only allowed to increase as the position increases and the net price of the short position is only allowed increase as the position becomes shorter.

([0188]). Again, there is no mention of two different time intervals or two different value trends.

Fifth, Brumfield discloses a visual indicator of the last traded quantity, increasing or decreasing volume, rate of change in volume, or increasing or decreasing price, *not* a first visual favorable/unfavorable trade indicator for the first time interval based on a comparison of the first opening value trend to the first closing value trend and a second visual favorable/unfavorable trade indicator for the second time interval based on a comparison of the second opening value trend to the second closing value trend as recited in claims 1, 25 and 39:

In accordance with a preferred embodiment, therefore, the LTQ marker 700 is a visual indicator of the last traded quantity. Any type of marker may be used as long as it may be recognized by the user as an indicator of quantity. . . . For example, the quantity itself may be presented numerically or graphically, and color may be used with the quantity indicator to illustrate a trend, such as increasing or decreasing volume or rate of change in volume, or increasing or decreasing price associated with the LTQ.

([0089]).

This benefits a trader in that the display of, and the color designation(s) for, the LTQ provides a visual reference of the market's price movements, status or trends, thereby permitting a trader to quickly absorb additional information, such as the direction of the market's activity. As a result of seeing the changes in the price of the last traded quantities, a trader can more easily determine market status and trends, thereby enhancing the likelihood of the trader entering orders and having those orders filled at desirable prices.

([0094]).

The Office Action indicated that Olsen discloses the second time interval is not equal to the first interval (page 7, lines 11-12). Instead, Olsen discloses that it is hard to compare effective return values for difference intervals, so the "[t]he usual way to enable comparisons between different intervals is through annualization" ([0131]). Applicant respectfully submits that this disclosure does not cure the many deficiencies of Brumfield. Moreover, Olsen does not disclose, teach or suggest calculating opening value trends and closing value trends for two different time intervals, and displaying a visual favorable/unfavorable trade indicator for each time intervals based on a comparison of the opening and closing value trends for each time interval as recited in claims 1, 25 and 39.

Applicant, therefore, respectfully submits that Brumfield and the other cited references, either alone or in combination, do not disclose, teach or suggest the following elements as recited in claims 1, 25 and 39 as amended:

obtaining . . . at least (a) *a first set of market data . . . based on a series of consecutive first time intervals* within the time period comprising a first opening value and a first closing value for each consecutive first time interval, (b) *a second set of market data . . . based on a series of consecutive second time intervals* within the time period comprising a second opening value and a second closing value for each consecutive

second time interval, and (c) *the first time interval is not equal to the second time interval*;

calculating a first opening value trend for the first time intervals using a market trend indicator and the first opening values for the underlying investment, and *a second opening value trend for the second time intervals* using the market trend indicator and the second opening values for the underlying investment;

calculating a first closing value trend for the first time intervals using the market trend indicator and the first closing values for the underlying investment, and *a second closing value trend for the second time intervals* using the market trend indicator and the second closing values for the underlying investment;

displaying a first visual favorable/unfavorable trade indicator for the first time intervals based on a comparison of the first opening value trend to the first closing value trend for the underlying investment, wherein the first visual favorable/unfavorable trade indicator is *a first color whenever the first closing value trend is greater than the first opening value trend* and the first visual favorable/unfavorable trade indicator is *a second color whenever the first closing value trend is lower than the first opening value trend*; and

displaying a second visual favorable/unfavorable trade indicator for the second time intervals based on a comparison of the second opening value trend to the second closing value trend for the underlying investment, wherein the second visual favorable/unfavorable trade indicator is *the first color whenever the second closing value trend is greater than the second opening value trend* and the second visual favorable/unfavorable trade indicator is *the second color whenever the second closing value trend is lower than the second opening value trend*.

As a result, applicant respectfully submits that the cited references do not disclose, teach or suggest all the elements recited in claims 1, 25 and 39 as amended. Accordingly, applicant respectfully submits that claims 1, 25 and 39 are not obvious or the cited references and are, therefore, allowable under 35 U.S.C. § 103(a). Applicant respectfully requests that the rejection of claims 1, 25 and 39 be withdrawn.

Claims 2-3, 5, 7-24 and 26-38

Applicant respectfully submits that claims 2-3, 5, 7-24 and 26-38 depend from claims 1, 25 and 39 which are allowable for the reasons stated above, and further distinguish over the cited references. In addition, applicant respectfully submits that the

cited references do not disclose, teach or suggest repeating the claimed steps for different time intervals” as recited in claims 20-22. Claims 2-3, 5, 7-24 and 26-38 are, therefore, allowable under 35 U.S.C. § 103(a). Accordingly, Applicant respectfully requests that any rejection of claims 2-3, 5, 7-24 and 26-38 be withdrawn.

Conclusion

For the reasons set forth above, applicant respectfully requests reconsideration by the examiner and withdrawal of the rejections. Applicant submits that claims 1-3, 5 and 7-39 are fully patentable. Applicant respectfully requests that a timely Notice of Allowance be issued in this case. If the examiner has any questions or comments, or if further clarification is required, it is requested that the examiner contact the undersigned at the telephone number listed below.

Date: October 27, 2008

Respectfully submitted,

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